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09/823,050	03/29/2001	George R. Borden IV	KLR 7146.073	8987
55648 7590 05/22/2008 KEVIN L. RUSSELL CHERNOFF, VILHAUER, MCCLUNG & STENZEL LLP 1600 ODS TOWER 601 SW SECOND AVENUE PORTLAND, OR 97204				
EXAMINER NGUYEN, LUONG TRUNG				
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/823,050  
Filing Date: March 29, 2001  
Appellant(s): BORDEN, GEORGE R.

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Kurt Rohlfis  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 03/03/2008 appealing from the Office action mailed 12/14/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,590,585	Suzuki et al.	7-2003
6,186,553	Phillips et al.	2-2001
6,085,205	Peairs et al.	7-2000

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Claims 33-38, 40-44, 46-48, 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 6,590,585) in view of Phillips et al. (US 6,186,553).**

Regarding claim 33, Suzuki et al. discloses calendar-based photo file browsing system (screen displayed by the AV content management and search program shown in figure 28, column 22, lines 1-28) for browsing a plurality of files including at least one of a digital image or a digital video, each said digital file having an associated date, said system having an interface displayed on a display, said interface comprising:

(a) a calendar portion (calendar display window 261, figure 28, column 22, lines 1-28) having a range of displayed dates (calendar display window 261 shows a range of displayed in March, figure 28), each respective said date containing an indicator (thumbnail image shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28) indicating the existence of one or more files associated with said respective said date;

(b) a browsing portion enabling a user to selectively increment said range a month (Suzuki et al. discloses that a user can select a month of the year 1999 by click on button “previous month” or “next month”, figure 28).

Suzuki et al. fails to specifically disclose a browsing portion enabling the user to selectively increment said range by a portion of a month. However, Phillips et al. teaches a calendar software, in which the selected date range allowed by the calendar creation software could be virtually any size (e.g., 2-100 days) and could span month or year boundaries as desire

(column 8, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Suzuki et al. by the teaching of Phillips et al. in order to allow a user selects any desired range.

Regarding claims 34, 48, Suzuki et al. discloses where said browsing portion permits a user to selectively increment said range by a selected one of a day, a month, and a year (a user can select month of the year 1999 by click on button “previous month” or “next month”, figure 28).

Regarding claims 35, 46, Suzuki et al. discloses where said browsing portion permits a user to adjust the size of said range by a number of days equal to or greater than a week (Note that the claims recited the alternative limitation “or” in the limitation “adjust the size of said range by a number of days equal to or greater than a week.” Therefore, the cited reference can read on limitation “adjust the size of said range by a number of days equal to a week” or limitation “adjust the size of said range by a number of days greater than a week.” In this case, Suzuki et al. discloses that a user can select any month of the year 1999, this indicates that the user can adjust the size of the range, figure 28, which read on limitation “adjust the size of said range by a number of days greater than a week”.

Regarding claims 36, 47, Suzuki et al. discloses where said browsing portion permits a user to alternate said range between a week and a month (figure 28 shows that the user can

browse image displayed in a week, for example, the user can browse image displayed in week of 3/1-3/6/1999 or 3/7-13/1999).

Regarding claim 37, Suzuki et al. discloses where said indicator is a thumbnail image (thumbnail images shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28).

Regarding claims 38, 44, Suzuki et al. discloses where said thumbnail image is representative of a plurality of images, each associated with the respective indicator's date (thumbnail images shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28).

Regarding claims 40, 50, Suzuki et al. discloses having plural said indicators (thumbnail images shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28).

Regarding claims 41, 51, Suzuki et al. discloses where each of said plural indicators of a respective said date indicates a category of files (column 22, lines 10-20).

Regarding claims 42, 52, Suzuki et al. discloses where each of said plural indicators of a respective date indicates a time associated with said respective date relative to other said indicators associated with said respective date (figure 28, column 22, lines 1-25).

Regarding claim 43, Suzuki et al. discloses calendar-based photo file browsing system (screen displayed by the AV content management and search program shown in figure 28,

column 22, lines 1-28) for browsing a plurality of files including at least one of a digital image or a digital video, each said digital file having an associated date, said system having an interface displayed on a display, said interface comprising:

(a) a calendar portion (calendar display window 261, figure 28, column 22, lines 1-28) having a range of displayed dates (calendar display window 261 shows a range of displayed in March, figure 28), each respective said date containing an indicator (thumbnail image shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28) indicating the existence of one or more files associated with said respective said date, said indicator being a thumbnail image of a file associated with said respective said date (thumbnail images shown in dates of 3/1/1999, 3/6/1999, 3/7-3/10/1999, figure 28, column 22, lines 1-28);

(b) a browsing portion enabling a user to selectively increment said range by a month (Suzuki et al. discloses that a user can select a month of the year 1999 by click on button “previous month” or “next month”, figure 28).

Suzuki et al. fails to specifically disclose a browsing portion enabling the user to selectively increment said range by a portion of a month. However, Phillips et al. teaches a calendar software, in which the selected date range allowed by the calendar creation software could be virtually any size (e.g., 2-100 days) and could span month or year boundaries as desire (column 8, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Suzuki et al. by the teaching of Phillips et al. in order to allow a user selects any desired range.

**Claims 39, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 6,590,585) in view of Phillips et al. (US 6,186,553) further in view of Peairs et al. (US 6,085,205).**

Regarding claims 39 and 49, Suzuki et al. and Phillips et al. fail to specifically disclose each respective displayed date has an associated displayed second indicator indicating the quantity of files associated with said respective displayed date. However, Peairs et al. teaches a calendar-based user interface, in which a monthly display page 500 shows a number of files for a respective displayed date, such as cell 504 for the date of August 19, 1996 shows 3 documents 506, 508 and 510, figure 5, column 4, lines 30-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Suzuki et al. and Phillips by the teaching of Peairs et al. in order to obtain a calendar-based user interface, which allows a user to recognize the number of files associated with a respective displayed date.



#### **(10) Response to Argument**

In re pages 5-6, Appellant argues that “the Examiner is apparently conflating a prior art disclosure of a user-selected *size* of a range of displayed dates, with the claimed step of allowing a user to select the *interval* by, which the range, whatever its size, is incremented. Phillips discloses the former, not the latter,” and therefore, Suzuki and Phillips do not disclose the limitation “a browsing portion enabling a user to selective increment said range alternatively either by a month or a portion of a month.”

In response, it is noted that the features upon which applicant relies (i.e., allowing a user to select the *interval* by, which the range, whatever its size, is incremented) are not recited in the rejected claim(s). Instead, regarding claim 33, the Appellant recited limitation “a browsing portion enabling a user to selective increment said range alternatively either by a month or a portion of a month.” The Examiner considers that Suzuki et al. in view of Phillips et al. do disclose this limitation.

Suzuki et al. discloses that a user can select a month of the year 1999 by click on button “previous month” or “next month”, figure 28, which corresponds to “a browsing portion enabling a user to selectively increment said range a month.” Suzuki et al. only fails to specifically disclose a browsing portion enabling the user to selectively increment said range by a portion of a month. However, Phillips et al. teaches a calendar software, in which the selected date range allowed by the calendar creation software could be virtually any size (e.g., 2-100 days) and could span month or year boundaries as desire (column 8, lines 1-5). This indicates that a user is able to select a portion of a month (i.e., 2 days or 3 days or a week, etc...). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify the device in Suzuki et al. by the teaching of Phillips et al. in order to allow a user to select any desired range of displayed days.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Luong T. Nguyen /L. T. N./

Conferees:

/David L. Ometz/

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